

REF Filed!
02.10.09

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PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Applicant: Serge Louis Boulet et al. Group Art Unit: 1626
Serial No.: 10/597,835 Examiner:
Sun Jae Y Loewe
Application Date: February 18, 2005 Conf No.: 6937
US Nat'l Entry
Date (if applicable): August 9, 2006
For: PHARMACEUTICAL COMPOUNDS
Docket No.: X-16288

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02.17.09

SUBMISSION UNDER 37 C.F.R. 41.33

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Applicants submit a copy of a newly discovered scientific article under 37 C.F.R. 1.97 contained herewith.

Since this submission is being filed after filing the notice of appeal and prior to filing the appeal brief under 37 C.F.R. 41.33, applicants provide

A) the article overcomes the rejection under 35 U.S.C. 103(a) under appeal; and

B) good and sufficient reasons why the article is necessary and why it was not presented earlier.

Claim Rejections under 35 USC 103(a)

In the Official Action dated April 11, 2008, the Examiner rejected Claims 1, 6, 8, 15 and 33 as obvious under 35 USC 103(a) after examination of the elected species, Example 30 in view of Cheshire *et al.*. The examiner discusses the teaching/suggestion/motivation to make changes to a specific compound disclosed Cheshire *et al.* to arrive at Applicant's elected species. In this final action, the Examiner refers to the Graham v. Deere analysis and summary presented in the office